

REMARKS

The Office Action has been received and carefully considered. Claims 30-36 and 45-59 are pending in this application. By this Amendment, claims 30, 55, 58 and 59 are amended.

No new matter has been added by this Amendment. Support for the amendments may be found in paragraphs 0066-0067, 0085-0087, 0096, and in the drawings, of the published patent application 2002/0194098, for example.

Reconsideration of the current rejection and objections in the pending Office Action is respectfully requested based on the following remarks.¹

A. The 35 U.S.C. 101 Rejection

In the Office Action, claims 30-36, 45-54 and 58 are rejected under 35 U.S.C. 101. The Office Action asserts the claimed invention is directed to non-statutory subject matter. The Office Action sets forth asserted basis for the 35 U.S.C. 101 rejection. In particular, on page 4, the Office Action asserts:

Claims 30-36, 45-54, 58 are rejected under 35 U.S.C. 101 because the broadest reasonable interpretation of the claim is drawn to a computer readable medium that covers forms of **non-transitory tangible media and transitory propagating signals per se** in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. See MPEP 2111.01. Because the broadest reasonable interpretation of a claim covers **a signal per se**, the claim is rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007).

(Emphasis added)

¹ As Applicant's remarks with respect to the rejections in the Office Action are sufficient to overcome such rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., assertions regarding dependent claims, whether a reference constitutes prior art, whether references are legally combinable for obviousness purposes) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

In order to expedite prosecution of the present application, the rejected claims are canceled or amended to more clearly recite statutory subject matter under 35 U.S.C. 101.

In view of the foregoing, it is respectfully requested that the aforementioned rejections under 35 U.S.C. 112 be withdrawn.

B. The 35 U.S.C. 103 Rejection

On page 4 of the Office Action, claims 30-36 and 45-59 are rejected under 35 U.S.C. §103 as being unpatentable over Dellinger (U.S. Patent No. 7,089,201) in view of in view of Arena et al (US 20020184129). This rejection is hereby respectfully traversed.

As set forth in M.P.E.P 706.02(j), 35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. M.P.E.P 706.02(j) indicates that after indicating that the rejection is under 35 U.S.C. 103, the Examiner should set forth in the Office Action:

(A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,

(B) the difference or differences in the claim over the applied reference(s),

(C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

(D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

M.P.E.P 706.02(j) references the well known requirements of Graham v. John Deere. Further, M.P.E.P 706.02(j) notes that it is important for an Examiner to properly communicate the basis for a rejection so that the issues can be identified early and the Applicant can be given fair opportunity to reply.

The Office Action sets forth various assertions in support of the proffered 35 U.S.C. 103 rejection. In particular, on page 5, lines 5-21, the Office Action asserts:

... Dellinger teaches **an adjustment module** for comparing the periodic retirement income payment amount and the guaranteed minimum periodic retirement income payment amount so as to generate a difference value, the difference value being a difference between the periodic retirement income payment amount and the guaranteed minimum periodic retirement income payment amount, and for outputting to the user at least the guaranteed minimum periodic retirement income payment amount, with the **adjustment module storing a balance**, associated with the user and the guaranteed minimum periodic retirement income payment amount, in an adjustment account if the periodic retirement income payment amount is less than the guaranteed minimum periodic retirement income payment amount (see at least col. 8, lines 35-50, col. 8, line 66 - col. 9, line 5). Dellinger does not specifically teach wherein the equity module determines that that payment amount. However, Arena teaches wherein a periodic retirement income payment amount is determined, by the equity module, to be greater than, equal to, or less than a guaranteed minimum periodic retirement income payment amount, such determination performed based on whether the income generating payments received are received according to a payment schedule (see at least paragraph 47). ...

(emphasis added)

Applicant respectfully maintains that such assertions are unsupported. In the referenced portion of Dellinger, Dellinger describes:

Another illustrative example follows, using a prospective formula. Again, this is merely one example of an approach the administration of which is covered under this invention to handle variable income benefits in other than the conventional manner described earlier. In this approach, a guaranteed minimum variable income benefit is established below which the benefit payment will not fall. However, in the event the benefit payment calculated without regard to the minimum falls below the minimum benefit payment guaranteed, **a portion of the variable annuity benefit reserve held by the insurer will be liquidated in an amount sufficient to cover the shortfall**. This will result in reduced benefits in the long term when performance of the funds might otherwise dictate a larger benefit payment.

(emphasis added)

However, of note, such disclosure of Dellinger fails to describe manipulation of a “balance”, as recited in claim 30. Rather, Applicant maintains that such disclosure of Dellinger simply describes liquidation of a reserve held by the insurer. That is, Dellinger’s teachings of “a

portion of **the variable annuity benefit reserve held by the insurer** will be liquidated in an amount sufficient to cover the shortfall” simply fails to teach the features of claim 30.

Also, claim 30 was previously amended to further recite that the balance is in particular associated with the user and the guaranteed minimum periodic retirement income payment amount. In contrast, Dellinger describes (column 8, lines 44-45) that the variable annuity benefit reserve is held by the insurer.

Relatedly, looking to the referenced teachings of Dellinger at column 8, line 65 - column 9, line 3; Fig. 5; and Dellinger at column 6, lines 31-35, Applicant respectfully submits that “reducing the number of units used to calculate future benefit payments (as described by Dellinger) is simply a fundamentally different concept vis-à-vis that claimed by Applicant. That is, Applicant submits that Dellinger fails to teach the features, as set forth above in claim 30, that the system:

aggregates the difference value with a balance stored in an adjustment account, the adjustment account associated with the user and the guaranteed minimum periodic retirement income payment amount, and

the difference value being a positive value if the periodic retirement income payment amount is less than the guaranteed minimum periodic retirement income payment amount, such that the difference value increments the adjustment account; and

the difference value being a negative value if the periodic retirement income payment amount is greater than the guaranteed minimum periodic retirement income payment amount, such that the difference value decrements the adjustment account.

In particular and relatedly, Dellinger fails to teach the claimed manipulation of the “difference value” and the various related features.

In response to Applicant’s arguments, the Office Action responds on pages 2-3. The Office Action asserts:

4. The applicant has argued on page 11 of applicant's arguments that Dellinger fails to teach manipulation of a "balance." The examiner respectfully disagrees.

Dellinger teaches **an adjustment module storing a balance** in an adjustment account if the periodic retirement income payment amount is less than the guaranteed minimum periodic retirement income payment amount as can be seen in at least col. 8, lines 35-50 and col. 8, line 66 - col. 9, line 5. In Dellinger the "adjustment module" that stores the balance is the variable annuity benefit reserve. In the case that the payment falls below the minimum benefit payment money is taken out of the reserve. Thus the "adjustment module" balance goes down to meet the minimum balance payoff. In this specific case there is a negative balance stored in the benefit reserve account.

(emphasis added)

Applicant respectfully traverses such assertions, in particular as to the amended claims. Claim 30 recites the feature that the claimed system "aggregates the difference value with a balance stored in an adjustment account, the adjustment account associated with the user and the guaranteed minimum periodic retirement income payment amount". Further, claim 30 is amended to recite the feature of "the balance in the adjustment account dictating payment amount to the user in excess of the guaranteed minimum periodic retirement income payment amount."

As set forth above, the Office Action asserts that the "adjustment module" of Dellinger that stores the balance is the "variable annuity benefit reserve." Applicant submits that such interpretation of Dellinger fails to teach the claimed features of claim 1, and in particular, claim 1 as amended.

Applicant submits that Dellinger fails to teach the features relied upon in the 35 U.S.C. 103 rejection. As a result, Applicant submits that the 35 U.S.C. 103 rejection is deficient

For at least these reasons, Applicant respectfully submits that claim 30 is allowable over Dellinger. Independent claims 55, 58 and 59 are allowable for similar reasons.

Regarding claims 31-36, 45-54 and 56-57, these claims are variously dependent upon independent claims 30, 55, 58, and 59. Thus, since the independent claims should be allowable as discussed above, the dependent claims should also be allowable at least by virtue of their

dependency on such independent claims. Moreover, these claims recite additional features which are not disclosed, or suggested, by the applied art taken either alone or in combination.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection be withdrawn.

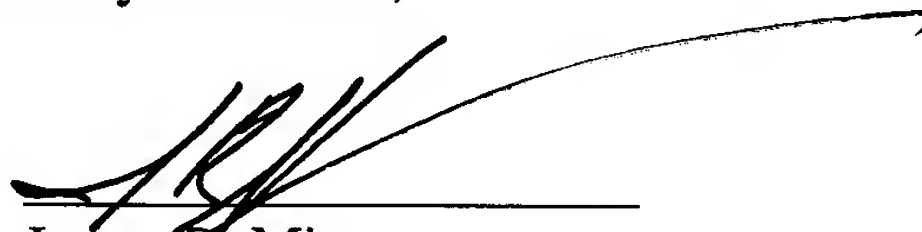
C. Conclusion

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees and additional claim fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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